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## SUMMARY OF TESTIMONY FROM DAVID BONIOR

March 28, 2006

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Hon. David Bonior

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NAACP

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*International Advisor*  
Mary Robinson  
*Former United Nations High*  
*Commissioner for Human Rights*

### Executive Director

Mary Beth Maxwell

Mr. Robert E. Feldman  
Executive Secretary  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> St. NW  
Washington, DC 20429

### Re: Wal-Mart Stores, Inc. FDIC Application # 20051977

Dear Executive Secretary Feldman:

On behalf of American Rights at Work, I submit this letter urging the FDIC to reject the application of Wal-Mart Stores, Inc. to receive FDIC insurance for an industrial bank chartered in Utah. As a national workers' rights organization, American Rights at Work joins other public interest groups that are concerned about the impact of Wal-Mart's influential business and labor practices on its employees, vendors, and competitors. As the world's largest employer, its business model sets standards that others follow in an effort to replicate its success or to remain competitive.

**Given Wal-Mart's track record of violating federal labor law, we have great concerns about Wal-Mart entering the risky, largely unregulated world of industrial loan companies (ILCs).** One of the criteria the FDIC uses to determine whether to grant a company deposit insurance is the general character of the company's management, including its "reputation for honesty and integrity."<sup>1</sup> In our report, *Wal-Mart: Rolling Back Workers' Wages, Rights and the American Dream*, we uncover the extreme lengths to which Wal-Mart has gone to keep its 1.3 million U.S. employees without union representation, calling into question the ethical character of its high-level management.<sup>2</sup>

**Between 1998 and 2003, 288 unfair labor practice charges were lodged against Wal-Mart, accusing the company of interfering with its employees' freedom of association.<sup>3</sup>** Of these charges, at least 94 resulted in formal complaints brought against Wal-Mart by the National Labor Relations Board (NLRB). The agency's prosecution of unfair labor practices resulted in at least 11 rulings against the company and 12 settlements. Among the NLRB charges were 41 complaints of terminating employees for union activity, 59 complaints of surveillance of union activity, and 59 complaints of interrogation.

Given the Wild West regulatory setting that ILCs operate within, it is all the more imperative that the FDIC considers the honesty, integrity, and law-abiding history of Wal-Mart's management. I therefore assert that Wal-Mart fails the test of management character and should thus be denied its application for deposit insurance.

Sincerely,



David Bonior  
Chair  
American Rights at Work

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<sup>1</sup> Federal Deposit Insurance Corporation, Rules and Regulations, Part 303, <http://www.fdic.gov/regulations/safety/manual/section12-1.html>.

<sup>2</sup> Johansson, Erin. *Wal-Mart: Rolling Back Wages, Workers' Rights, and the American Dream*, American Rights at Work, November 2005. <http://araw.org/walmart/report.cfm>

<sup>3</sup> Sources: NLRB, FOIA request by Erin Johansson, filed 28 June 2005; UFCW database of unfair labor practice charges filed by the union against Wal-Mart. The NLRB list only included closed cases, and the list provided by the UFCW included all the charges the union filed, both closed and open cases. The two lists combined may be missing charges filed by another union or an individual that are still open.



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**Given Wal-Mart's track record of violating federal labor law, we have great concerns about Wal-Mart entering the risky, largely unregulated world of industrial loan companies (ILCs).** One of the criteria the FDIC uses to determine whether to grant a company deposit insurance is the general character of the company's management, including its "reputation for honesty and integrity."<sup>1</sup> In our report, *Wal-Mart: Rolling Back Workers' Wages, Rights and the American Dream*, we uncover the extreme lengths to which Wal-Mart has gone to keep its 1.3 million U.S. employees without union representation, calling into question the ethical character of its high-level management.<sup>2</sup> Beginning with Sam Walton's strong opposition to unions,<sup>3</sup> Wal-Mart has made it a managerial priority to remain union-free. To achieve this, the company has shown a willingness to violate its employees' rights under federal labor law.

**Between 1998 and 2003, 288 unfair labor practice charges were lodged against Wal-Mart, accusing the company of interfering with its employees' freedom of association.**<sup>4</sup> Of these charges, at least 94 resulted in formal complaints brought against Wal-Mart by the National Labor Relations Board (NLRB). The agency's prosecution of unfair labor practices resulted in at least 11 rulings against the company and 12 settlements. Among the NLRB charges were 41 complaints of terminating employees for union activity, 59 complaints of surveillance of union activity, and 59 complaints of interrogation.

Wal-Mart's illegal behavior had profound consequences for its employees. When meatcutters in Jacksonville, Texas, voted to form a union in 2000, Wal-Mart switched to case-ready meat nationwide and refused to recognize and

bargain with their union. When the NLRB ordered the company to bargain, Wal-Mart appealed the decision (the case is still pending).<sup>5</sup> Similarly, when workers at a store in Jonquiere, Quebec formed a union in 2004, Wal-Mart shut down the entire store. The Quebec Labour Relations Board later ruled that the store's closure was intended as a reprisal against union organizing by the employees.<sup>6</sup>

Because the character of a company's management involves more than simply abiding by the law, it's important to examine the legal but heavy-handed anti-union tactics Wal-Mart employs. For instance, Wal-Mart developed a systematic method of tracking employees who have grievances that could lead them to form a union. The Union Probability Index (now termed "Unaddressed People Issues") is a tactic the company uses to identify any potential hotbed of union activity.<sup>7</sup> From the results of an annual internal survey of employee attitudes about working conditions, the UPI rates stores by their level of employee dissatisfaction. Stores that score unfavorably must take steps to prevent employees from forming a union.<sup>8</sup>

Wal-Mart also provides its managers with a handbook titled, "The Manager's Toolbox to Remaining Union Free," guiding them on how to prevent and respond to unions in their stores.<sup>9</sup> The Toolbox orders managers to call the 'Union Hotline' at the first sign of union activity. When union activity is identified, as the Toolbox assures, "The Labor Relations Team has developed action plans for all types of union activity."

A plan of action was certainly in place when the tire and lube employees in Loveland, Colorado tried to organize a union in 2005. According to an employee, the day after talk of the union spread, Wal-Mart flew in about 10 staff people from their headquarters in Bentonville, Arkansas.<sup>10</sup> They forced employees to sit through presentations and videos which suggested that unions hurt peoples' jobs and take money out of their paychecks without letting them know. Two weeks before the union vote in Colorado, Wal-Mart announced it was closing its store in Jonquiere, Quebec. Despite initially having a majority of workers sign cards authorizing union representation, the employees voted 17 to 1 against union representation after Wal-Mart's campaign.

Wal-Mart's tactics in Colorado were legal, but were they ethical? The company's managerial culture clearly allows for a high degree of lawlessness and coercion in order to prevent the formation of unions. And with the NLRB's weak enforcement of the law, and loopholes in the law rendering many of Wal-Mart's unionbusting tactics legal, the company can get away with its low-road labor relations model. This model has given Wal-Mart an unfair competitive edge in the retail sector, causing stores to shutter and retail wages to drop when it expands into a community.<sup>11</sup>

Given the Wild West regulatory setting that ILCs operate within, it is all the more imperative that the FDIC considers the honesty, integrity, and law-abiding history of Wal-Mart's management. I have only cited Wal-Mart's unlawful and unethical activity related to the prevention of unions, yet the company has also been found guilty of widespread violations of discrimination law, child labor law, and wage and hour law.<sup>12</sup>

Though I do not speak for the Community Central Bank of Michigan, as a member of its Board of Directors, I fully understand the importance of having managers with integrity run our financial

institutions. I therefore assert that Wal-Mart fails the test of management character and should thus be denied its application for deposit insurance.

Sincerely,



David Bonior

Chair

American Rights at Work

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<sup>3</sup> Walton, Sam and John Huey. *Sam Walton: Made in America* (New York: Doubleday, 1992) 129-131.

<sup>4</sup> Sources: NLRB, FOIA request by Erin Johansson, filed 28 June 2005; UFCW database of unfair labor practice charges filed by the union against Wal-Mart. The NLRB list only included closed cases, and the list provided by the UFCW included all the charges the union filed, both closed and open cases. The two lists combined may be missing charges filed by another union or an individual that are still open.

<sup>5</sup> *Wal-Mart Stores, Inc.*, JD(ATL)-37-03 (2003).

<sup>6</sup> Austen, Ian, "Quebec Rules Against Wal-Mart in Closing of Unionized Store," *The New York Times*, 20 Sept. 2005: C7.

<sup>7</sup> Wal-Mart Stores, Inc. memo, provided by the UFCW. <[http://storeinet.walmart.com/home/US/wm/store/content/managing\\_the\\_store/02\\_05\\_01\\_grass\\_roots\\_20](http://storeinet.walmart.com/home/US/wm/store/content/managing_the_store/02_05_01_grass_roots_20)>.

<sup>8</sup> Wal-Mart Stores, "A Manager's Toolbox to Remaining Union Free," 1997 <[http://www.ufcw.org/issues\\_and\\_actions/walmart\\_workers\\_campaign\\_info/relevant\\_links/anti\\_union\\_manuals.cfm](http://www.ufcw.org/issues_and_actions/walmart_workers_campaign_info/relevant_links/anti_union_manuals.cfm)>.

<sup>9</sup> Wal-Mart Stores, "A Manager's Toolbox to Remaining Union Free."

<sup>10</sup> Joshua Noble, Wal-Mart employee, personal interview, by Erin Johansson, 27 June 2005.

<sup>11</sup> For studies on store closings that occurred when Wal-Mart entered a community, see Stone, Kenneth E. "Impact of Wal-Mart Stores on Iowa Communities: 1983-1993," *Economic Development Review* 13 (1995): 60-69; and Stone, Kenneth E., Georgeanne Artz, Albert Myles, *The Economic Impact of Wal-Mart Supercenters on Existing Businesses in Mississippi*, Iowa State University, 2002 [http://www.seta.iastate.edu/retail/publications/ms\\_supercenterstudy.pdf](http://www.seta.iastate.edu/retail/publications/ms_supercenterstudy.pdf). For a study on the impact Wal-Mart has on retail wages, see Dube, Arindrajit, Barry Eidlin, and Bill Lester, *The Impact of Wal-Mart Growth on Earnings Throughout the Retail Sector*, University of California at Berkeley IIR Working Paper, 2005.

<sup>12</sup> For an account of Wal-Mart's discrimination against the disabled, see Congressman George Miller, *Everyday Low Wages: The Hidden Price We All Pay for Wal-Mart*, Report by the Democratic Staff of the Committee on Education and the Workforce, U.S. House of Representatives, 2004. For an account of Wal-Mart's violations of child labor law, see Kalra, Ritu, "Wal-Mart fined over child labor," *The Hartford Courant*, 18 June 2005: A1. For an account of Wal-Mart's violations of wage and hour law, see Associated Press, "Federal Jury Finds Wal-Mart Guilty in Overtime Pay Case," *Chicago Tribune*, 12/20/03 and Steven Greenhouse, "Suits Say Wal-Mart Forces Workers to Toil Off the Clock," *The New York Times*, 6/25/02.